JONES ACT, 46 U. S. C. 688

Any seaman who shall suffer personal injury in the course of his employment may, at his election, maintain an action for damages at law, with the right of trial by jury, and in such action all statutes of the United States modifying or extending the common-law right or remedy in cases of personal injury to railway employees shall apply; and in case of the death of any seamen as a result of any such personal injury the personal representative of such seaman may maintain an action for damages at law with the right of trial by jury, and in such action all statutes of the United States conferring or regulating the right of action for death in the case of railway employees shall be applicable. Jurisdiction in such actions shall be under the court of the district in which the defendant employer resides or in which his principal office is located.

CERTAIN INTERROGATORIES OF FIRIPIS AND ANSWERS OF PETITIONER SOUTHERN CROSS STEAMSHIP COMPANY, INC:

3. State the names, addresses and citizenship of all stockholders or persons owning an interest in Southern Cross Steamship Company, Incorporated, owner of the SS MARGARITIS and if any of these stockholders or persons are corporate, state the addresses of the offices of said corporations if any, and their nationality and state further the names, addresses and nationality of each and every stockholder in such corporations if any, further stating the names, addresses and nationality of each and every stockholder in any subsequent corporation owning stock in respondent Southern Cross Steamship Company, Incorporated, until such true ownership of respondent Southern Cross Steamship Company, Incorporation is finally traced to any individual stockholder or stockholding individuals stating the names, addresses and nationality of each of such stockholder or stockholding individuals.

Ans: Southern Cross Steamship Company, Inc. is presently wholly owned by Greek citizens. At the time of the alleged injury to George Firipis 20% of the corporate stock was owned by Mr. Stephen Perry, 73 W. Beech Street, Long Beach, New York, However, in January, 1959 Mr. Perry sold his interest to Greek citizens.

7. State whether or not respondent Southern Cross Steamship Company, Incorporated at the time of the occurrences mentioned in the libel, maintained an office in the Republic of Honduras and if so give the address of said office, the names and addresses of all employees and the length of time prior to the incidents in the libel that such office or any office in the Republic of Honduras was maintained.

Ans: No.

8. State whether or not operating instructions of the SS MARGARITIS were issued from the Republic of Honduras.

Ans: No.

9. State whether or not the SS MARGARITIS prior to the occurrence in the libel, made any voyages to or from the Republic of Honduras to other ports of the world and if so the number of said voyages and dates of touching at Honduras and leaving Honduras prior to the incidents of the libel.

Ans: No.

10. State the names and addresses of those persons giving the operating instructions for said SS MARGARITIS.

Ans: At the time of the injury to Firipis orders were given by the Greek owners and Mr. Stephen Perry, an American citizen (who owned 20% of the corporate stock).

11. State the dates and places of contacts and voyages of the SS MARGARITIS to and with ports of the United States for a period of two years prior to the libellant's injuries.

Ans: V/12 dated Paris 12/13/55—Delivery Japan—Redel.

Cont.

V/13—C/P dated New York 4/17/56—New York—Rotterdam.

V/14—C/P dated New York 5/31/56—Norfolk France.

V/15—C/P dated New York 6/19/56—Baltimore Germany.

V/16—C/P dated New York 8/17/56—Newport News France.

V/17—C/P dated New York 9/27/56—New York Japan.

V/18—C/P dated New York 1/17/57—Portland Egypt.

V/19—C/P dated London 4/8/57—Yeman/Japan.

V/20—C/P dated New York 5/24/57—Vancouver Rotterdam.

V/21—C/P dated New York 7/25/57—New York Havana.

V/22—C/P dated New York 8/8/57—New Orleans Mexico.

V/23—C/P dated New York 10/24/57—Galveston Brazil.

V/24—C/P dated London 11/29/57—Argentina Germany.

IN THE

Supreme Court of the United States

October Term

No. 733

REPLY TO BRIEF OF
FIRIPIS IN OPPOSITION

IN THE

Supreme Court of the United States

October Term — 1960

No. 733

SOUTHERN CROSS STEAMSHIP CO., INC.
Petitioner

v.

GEORGE FIRIPIS
Respondent

REPLY TO BRIEF OF FIRIPIS IN OPPOSITION

The courts below and the libellant in the District Court rely upon certain alleged contacts with the United States which they feel are sufficient to apply the Jones Act to the facts of this case, rather than the law of the vessel's flag which the seaman had agreed to govern his service on the vessel and notwithstanding the admitted facts that the Honduran law was properly proven and the Hondural Consul at Norfolk came forward and offered to adjudicate the matter between the parties (see affidavit Hondural Consul, appendix) pursuant to Article XXII of the Treaty of Friendship, Commerce and Consular Rights between the United States and Honduras.

On pages 9 and 10 of respondent, George Firipis' Brief in Opposition are listed nine (9) alleged significant contacts with the United States. These purported contacts are either not supported by the evidence or are

in actuality of no significance. In order that the record might be correct in this regard, we will discuss each of these purported contacts separately:

"1. PETITIONER HAS ITS RESIDENCE AND OFFICE AT NO. 1, BROADWAY, NEW YORK CITY, NEW YORK."

The petitioner in this case is Southern Cross Steamship Co. Inc. In the District Court libellant below propounded the following interrogatory and the respondent below gave the following answer:

"Interrogatory No. 2—State the address of the principal office of said Southern Cross Steamship Company, Incorporated, together with the addresses of any other office of said respondent."

"Answer: No. 80 Broad Street, Monrovia, Liberia."

However it is interesting to note that the *libellant in his appendix* to his brief in the Court of Appeals *deletes this interrogatory and answer though he purports to set forth fully all interrogatories propounded by libellant and answers given by respondent,* Southern Cross Steamship Co. Inc. (Compare Interrogatories and answers appendix libellant's brief before Circuit Court of Appeals with those in record)

"2. PETITIONER ACTIVELY DIRECTS, OPERATES, MANAGES AND CONTROLS THE SS "MARGARITIS" FROM ITS OFFICE IN NEW YORK CITY"

Here again there is no evidence in the record to support such a statement. Again we refer the Court to

libellant's interrogatories and respondent's answer which were introduced by libellant in the District Court.

"Interrogatory No. 5 — State whether or not Southern Cross Steamship Company, Incorporated, directly issued orders or instructions with reference to the management, operation, control and sailing instructions of the SS "MARGARITIS".

"Answer — Southern Cross Steamship Company, Inc. issues orders directly for the operation, etc. of the SS 'MARGARITIS'.

Here again it is most interesting to note that *libellant* on page 6 of the appendix of his brief in the Circuit Court of Appeals where he sets forth this interrogatory as No. 6 *fails to give the correct answer* above which appears in the record, *but instead, states that respondent's answer was, to this most determining question "NO".*

"3. PETITIONER HAS NO CONNECTION OR CONTACT WHATSOEVER WITH HONDURAS NOR HAS ITS VESSEL EVER BEEN THERE NOR WERE THERE ANY HONDURAN SEAMEN ABOARD."

This allegation is readily admitted. However, the vessel in question was registered in Honduras, flew the Honduran flag, the seaman libellant agreed to the application of Honduran law should he have any claim for injury or illness *and the Hondural Consul at Norfolk offered to determine the controversy between the parties.* (See this appendix)

"4. PETITIONER ALTHOUGH ALLEGING TO BE A LIBERIAN CORPORATION HAS NO OFFICERS OR EMPLOYEES IN LIBERIA NOR HAS THE SS "MARGARITIS" EVER BEEN TO LIBERIA. NOR WERE ANY LIBERIAN SEAMEN ABOARD".

The first part of this allegation is refuted by the vessel owner's answer to libellant's interrogatory No. 2 and interrogatory No. 6 which we have set forth correctly and discussed above.

"5. PETITIONER NEITHER HAD OFFICES NOR OFFICERS NOR WAS THE SS "MARGARITIS" CONTROLLED OR OPERATED FROM GREECE NOR DID IT FLY THE GREEK FLAG."

We need say no more relative to this allegation than that it is immaterial relative to determining if the Jones Act or Honduran law is applicable in this case.

"6. SEAMAN FIRIPIS VALIDATED ARTICLES IN NEW YORK CITY AND WAS INJURED AT NORFOLK, VIRGINIA."

Seaman Firipis *did not* validate any Articles at New York City. The Articles in question were signed by Firipis at Bremen, Germany, on March 13, 1958 and validated thereafter by the Honduran Consul at New York, no Honduran Consul being at Bremen. (See Articles attached petitioner's appendix).

"7. PETITIONER VIOLATED THE UNITED STATES WAGE STATUTES (46 U. S. C. A. 596) AT NORFOLK, VIRGINIA."

Assuming such a violation did occur it has no material bearing on the application of the Jones Act to an injury claim.

"8. ALL BUT TWO OF THE VOYAGES OF THE SS 'MARGARITIS' WERE MADE BETWEEN THE UNITED STATES AND OTHER PORTS OF THE WORLD EXCEPTING HONDURAS, LIBERIA AND GREECE."

This court decided long ago in *Lauritzen* v. *Larsen* 345 U. S. 571, that this was not a factor to be considered in determining the law applicable to seamen injured on foreign flag vessels.

"9. TWENTY (20) PERCENT OF PETITIONER'S STOCK WAS OWNED BY A UNITED STATES CITIZEN."

In opposition to this allegation we need only say that eighty (80) percent of petitioner's stock was owned by aliens.

Respectfully submitted,

HUGH S. MEREDITH
WALTER B. MARTIN, JR.
Proctors for Southern Cross Steamship Co., Inc.

APPENDIX

AFFIDAVIT OF ROLANDO J. de LEON
CONSUL FOR THE REPUBLIC OF HONDURAS

This day came Rolando J. de Leon, who first having been sworn doth depose and say that he is consul for the Republic of Honduras at Norfolk, Virginia; that pursuant to Article XXII of the Treaty of Friendship, Commerce and Consular Rights between the United States and Honduras, he requests this Honorable Court to decline jurisdiction of the claim of Georgios Firipis against the Honduran Steamship MARGARITIS; that he stands ready, willing and able to adjust said claim pursuant to the laws of the Republic of Honduras.

ROLANDO J. DE LEON

Subscribed and sworn to before me this 31st day of July, 1958.

Joseph A. Gawrys
Notary Public

My commission expires: February 18, 1962